

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

PRE-APPEAL BRIEF REQUEST FOR REVIEW	Title: METHOD AND APPARATUS FOR ENABLING DISTRIBUTED SUBSCRIPTION SERVICES, SUPPLIES MAINTENANCE, AND DEVICE- INDEPENDENT SERVICE IMPLEMENTATION	
	Inventor(s):	Furst et al.
	Application No.:	10/686,751
	Filing Date:	October 16, 2003
	Confirmation No.	8683
	Examiner:	Arvin Eskandarnia
Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450	Art Unit:	2448
	Last Office Action:	February 17, 2010

- ☒ Applicant(s) request(s) review of the final rejection in the above-identified application. No amendments are being filed with this request.
- ☒ This request is being filed with a notice of appeal.
- ☒ The review is requested for the reason(s) stated on the attached sheet(s).
Note: No more than five (5) pages may be provided.

I am the

- ☐ applicant/inventor.
- ☐ assignee of record of the entire interest See 37 CFR 3.71.
Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)
- ☒ attorney or agent of record.
- ☐ attorney or agent acting under 37 CFR 1.34.

Respectfully submitted,
Fay Sharpe LLP

Date: 5/17/10


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NOTE: Signature(s) of all the inventor(s) or assignee(s) of record of the entire interest or their representative(s) is/are required. Submit multiple forms if more than one signature is required, see below*.

- ☒ *Total of 1 forms are submitted.

Certificate of Transmission

I hereby certify that this correspondence (and any item referred to herein as being attached or enclosed) is (are) being transmitted to the USPTO by electronic transmission via the EFS Web on the date indicated below.

Date: May 17, 2010

Name: Mary Ann Tomaszewski

By way of brief review, the present application is directed towards architectures, systems and methods for reducing product development time in a family of products that can be remotely diagnosed and maintained. Where prior products were developed on an individual basis, each with its own unique or tightly coupled communication method and system architecture, the present application describes systems and architectures that allow aspects to be reused across a wide variety of devices. For example, the systems, architectures and methods of the present application provide for a **reusable device model agent** that can be installed in or associated with every product of a product family. Customizing or configuring information for the device model agent is included in a device model which can have unique aspects for each new product.

For example, as described in independent **claim 26** (see **Preliminary Amendment B**, which was filed March 12, 2009) an interchangeable **device model** for a first product selected from a family of device models wherein each member of the family of device models includes at least identifications of classes of information that can be communicated to and/or from each of the products of the family of products and mappings indicating how the classes of information can be communicated to and from the first product. As further recited in **claim 26**, the system further includes at least one respective device model agent that is operative to read the interchangeable device model and access information in the at least one respective unit and to provide information to the at least one respective unit according to the interchangeable device model and to communicate with at least one other element of the system regarding the at least one unit.

The Final Office Action that was mailed February 17, 2010 asserts that **claims 26-30, 32-35, 36-40 and 42-44** of the present application are obvious in light of Goldstein and that **claims 31 and 34** are obvious in light of Goldstein in view of Freed.

It is respectfully submitted that these rejections are based on clear errors. Additionally, in at least some instances, the Office Action does not meet its burden of presenting a *prima facie* case of obviousness. Accordingly, Pre-Appeal Brief review is respectfully requested.

Errors of the Office Action and failures of the Office Action to provide an appropriate *prima facie* rejection are discussed, for example, on **pages 10-17** of

Applicants' **Response E (AF)**, which was filed on March 15, 2010, and the attention of the reviewers is directed thereto.

For example, with regard to the interchangeable device model recited in independent **claim 26**, the Office Action cites portions of paragraph 33 of Goldstein. However, paragraph 33 simply indicates that a product identifier is included in a message that is transmitted to a customer service representative and that a routing device may be configured to ensure that the message is routed to a terminal that is used by a customer service representative that is familiar with the design of the apparatus.

Paragraph 33 **does not disclose or suggest** an interchangeable device model. While paragraph 33 indicates that a product identifier may be a model number, that does not disclose or suggest an interchangeable device model of the type recited in **claim 26**. For example, as indicated above, the device model of **claim 26** includes **identifications of classes** of information and **mappings** indicating how the classes of information can be communicated to and/or from the first product.

Additionally, it is noted that the assertions of the Office Action are inconsistent. The assertions **first** appear to draw an analogy between the **apparatus 15 of Goldstein** and the device or first product recited in **claim 26**. **Then** the Office Action refers to a mapping to the terminal of the customer service representative of Goldstein as if the terminal were analogous to the device or first product recited in **claim 26**. It is respectfully submitted that this inconsistency is symptomatic of the fact that Goldstein **does not disclose or suggest** the elements recited in **claim 26** or the inter-relationships of components recited in **claim 26** of the present application. For the foregoing reasons, the rejection of **claims 26-35** are based on **clear errors**.

With regard to the recitation of at least one respective **device model agent** in **claim 26**, the Office Action cites reference numeral 107 of Fig. 4 of Goldstein. However, reference numeral 107 identifies a step described as: "provide customer service representative with information necessary to diagnose user's problem." This indication that a customer service representative is provided with information **does not disclose or suggest** at least one **device model agent** that is operative to read the interchangeable device model and access information in the at least one respective unit and to provide information to the at least one respective unit according to the

interchangeable device model. For at least the foregoing reasons, **claims 26-35** are based on clear errors.

With regard to the recitation of a services host server, the Office Action cites reference numeral 55 of Fig. 1 and paragraph 33 of Goldstein.

However, neither Fig. 1 nor the cited paragraph disclose or suggest that the cited customer service system is operative to exchange information with the at least one respective device model agent as is recited in **claim 26**. Furthermore, it is respectfully submitted that the Office can only be applying impermissible hindsight reasoning to read the vague discussion of a model number or any other type of information referred to in paragraph 33 as disclosing or suggesting the particular details recited in the description of the **services host server** recited in **claim 26**. For at least the foregoing additional reasons, the rejection of **claim 26** is based on clear errors.

With regard to **claim 27**, the Office Action cites lines 17-24 of paragraph 33 of Goldstein in regard to the recitation of a second interchangeable device model for a second product selected from the family of device models wherein the second interchangeable device model includes mappings indicating how the classes of information can be communicated to and/or from the second product.

However, the cited portion of paragraph 33 simply indicates that a routing device, based on the product identifier transmitted from the apparatus, may be configured to ensure that the message from the apparatus is routed to a terminal that is used by a customer service representative who is familiar with the design of the apparatus or of the component identified by the product identifier. It is respectfully submitted that discussion of routing a message to a person that is familiar with a product identified in the message does not disclose or suggest a second interchangeable device model including mapping indicating how classes of information can be communicated to or from the second product. For at least the foregoing additional reasons, the rejection of **claim 27** is based on clear errors.

Discussion of additional clear errors related to the rejection of **claim 27** and clear errors related to the rejection of **claim 28** is provided on pages 12 and 13 of Response E (AF). The attention of the reviewers is directed thereto.

With regard to **claim 29**, the Office Action only cites reference numerals 25 and 32 of Fig. 2 of Goldstein. However, nothing in the depiction of **memory 25** and

processing element 32 of the electric apparatus of Fig. 2 of Goldstein discloses or suggests that a device model agent is at least one of implemented as a process included in the at least one respective unit and implemented within a physical add-on module that is connected to the respective at least one unit. **Cited Fig. 2 does not disclose or suggest a device model agent.**

Moreover, it is respectfully submitted that only impermissible hindsight reasoning would lead one to interpret the depiction of **memory 25** and **processing element 32** of Fig. 2 as disclosing or suggesting a device model agent implemented as recited in **claim 29**. For at least the foregoing additional reasons, the rejection of **claim 29** is based on clear errors.

With regard to **claim 30**, the Office Action cites **new grounds of rejection** based on paragraph 16, lines 4-9 and paragraph 19. However, cited paragraph 16 clearly indicates that the invention of Goldstein generally pertains to an apparatus for enabling users to contact a customer service representative, thereby enabling the customer service representative to diagnose and possibly correct operational errors or problems with the apparatus. As a result, allegedly, the user of the system of Goldstein is able to quickly and easily receive advice on the operation or configuration of the apparatus.

It is respectfully submitted that paragraph 16 **does not disclose or suggest an application server** that is operative to receive application software modules from at least one services provider and make the software application modules available for transmission to and installation in the at least one respective device model agent for performing new services in conjunction with the at least one respective unit, as recited in **claim 30**.

Cited paragraph 19 indicates that Fig. 2 depicts a more detailed view of the apparatus 15. Moreover, paragraph 19 **does not disclose or suggest an application server**. It is respectfully submitted that paragraph 19 **does not disclose or suggest** that an application server is operative to receive application software modules from at least one services provider or is operative to make software application modules available for transmission to and installation in at least one respective device model agent for performing new services in conjunction with at least one respective unit. Paragraph 19 **does not even indicate** that any aspect of the **apparatus 15** can be updated. Moreover, the cited portion of paragraph 19 **does not indicate** that the

apparatus includes a device model agent. Contrary assertions of the Office Action represent clear errors.

Still further, it is noted that other portions of the Office Action draw an analogy between the device model agent of the claims of the present application and the routing device 85 of Goldstein. This inconsistency of the Office Action in the citation of an element of Goldstein that is allegedly analogous to the device model agent of the present application highlights the clear errors of the Office Action

Discussion of clear errors associated with the rejections of **claims 32-38** are provided on pages 15 and 16 of Response E (AF), and the attention of the reviewers is directed thereto.

Rejections of **Claims 31** and **41** under 35 USC §103(a) are discussed on page 17 of Response B. The attention of the reviewers is directed thereof.

In short, while the cited lines include the word --proxy-- and indicate that an SSL device **acts as a proxy for one or more servers**, the cited portion of Freed **does not disclose or suggest** that a device model agent is either implemented as a device proxy or implemented in a device proxy within an application server, as is recited in **claims 31** and **41**.

Additionally, the Office **has not met its burden** of presenting a *prima facie* case of obviousness. For example, in an apparent effort to justify the combination, the Office Action asserts that "one of the ordinary skilled in the art would be motivated to be able to configure a device to act as a proxy or the client can recognize the device as the server." As best as this can be understood, this is an assertion that one would be motivated to make the suggested combination. However, the Office Action does not suggest a reason **why** someone would be motivated to make this combination. Accordingly, **the Office has not met its burden** of presenting a prima facie case of obviousness, and the rejections are based on clear error.

The only motivation for combining subject matter from lines 2-6 of paragraph 42 of Freed with subject matter from Goldstein is information gleaned only from the present application. Accordingly, the rejection of **claims 31** and **41** is based on **impermissible hindsight reasoning** which is clear error.

For at least the foregoing reasons, Pre-Appeal Brief review is respectfully requested.